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COMMITTEE ON THE RIGHTS OF THE CHILD

Twelfth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Zimbabwe

1. The Committee considered the initial report of Zimbabwe (CRC/C/3/Add.35) at its 293rd, 294th and 295th meetings (CRC/C/SR.293-295) held on 22 and 23 May 1996 and adopted* the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for engaging, through a high-level and multidisciplinary delegation, in an open and fruitful dialogue with the Committee. While noting the self-critical approach of the report of the State party, the Committee regrets that the information provided therein did not follow the Committee's guidelines.

B. Positive aspects

3. The Committee notes with appreciation the steps taken by the Government to promote tolerance and democracy in society, including through constitutional provisions. In this regard, it welcomes the recent amendment No. 14 to the Constitution, which prohibits discrimination on the ground of gender. It further notes steps taken to create awareness of children's rights as well as to encourage children's participation, including by organizing a Children's Parliament and promoting Youth Councils and Child Mayors.

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* At the 314th meeting, held on 7 June 1996.

4. The Committee notes the establishment of the Inter-Ministerial Committee on Human Rights and International Law to coordinate activities of relevant government ministries and departments to implement the Convention. The Committee welcomes the decision of the Government to submit a yearly report to Cabinet and Parliament on measures taken to implement the rights set forth in the Convention.

5. The Committee is encouraged by the combined efforts of the Government and non-governmental organizations to promote children's rights.

6. The Committee notes with appreciation the establishment of the Office of the Ombudsman in 1982 and welcomes the decision to broaden its mandate to include the investigation of alleged violations of children's rights by members of the defence forces, the police and correctional officials.

7. The Committee welcomes the measures taken by the Government to improve living conditions and alleviate poverty, including through the expansion of the income-generating capacity of people in the rural areas.

8. The Committee welcomes the intention of the Government to incorporate the Convention into the school curricula. It further welcomes the attention paid by the Government to "Let's all talk about it", the campaign against AIDS being undertaken in the educational system.

9. The Committee also welcomes the "victim-friendly courts" initiative aimed at providing special counselling for the rehabilitation of victims of child sexual abuse.

C. Factors and difficulties impeding the implementation of the Convention

10. The Committee notes that Zimbabwe, prior to 1980, had a non-democratic regime where legislation and policies adopted and implemented by the authorities led to racial segregation and discrimination in society. The continuing effects of that situation, together with the burden of the external debt faced by the State party and the recent drought, have hampered implementation of the Convention.

D. Principal subjects of concern

11. The Committee is concerned that the State party has not yet undertaken a comprehensive legal reform with a view to ensuring that the national legislation fully conforms to the Convention. It notes that the existence of a dual system of common law and customary law creates additional difficulties in implementing the Convention and impedes effective monitoring of its enforcement.

12. The Committee notes with concern that the legislative measures taken to prevent and eliminate any form of discrimination in the light of article 2 of the Convention are insufficient. It notes in this regard that, according to section 23 of the Constitution, the principle of non-discrimination does not apply to private professionals or institutions; the same provision allows for derogations in important areas such as adoption, marriage, divorce and other

matters of personal law and prevents, inter alia, girls from having inheritance rights. In addition, it allows for discrimination on the basis of race in relation to the minimum age for marriage, inheritance and children born out of wedlock. The Committee further notes in this regard the different minimum ages for marriage for girls and boys in the legislation.

13. The Committee notes with concern the persistence of behavioural attitudes in the society as well as cultural and religious practices which, as recognized by the State party, hamper the implementation of children's rights. Mention can be made in this regard of the difficulties in ensuring birth registration in remote areas of abandoned and refugee children, as well as of the situation of female victims of practices such as ngozi (girl child pledging), lobola (bride price) and early marriage, and of disabled children.

14. The Committee notes with concern the lack of an effective mechanism to ensure systematic implementation of the Convention and the monitoring of progress achieved. Insufficient measures have been taken to gather reliable quantitative and qualitative data in all areas covered by the Convention and in relation to all groups of children, particularly those belonging to the most disadvantaged groups.

15. The Committee is concerned that insufficient attention has been paid to the provisions of article 4 of the Convention and notes the persistence of economic and social disparities in the enjoyment of the rights recognized by the Convention, particularly in relation to children living in rural areas, children on commercial farms and children living in poverty in urban areas. It notes in this regard that, as recognized by the State party, the introduction of fees for health care and education, as well as the inadequate social assistance system, have negatively affected the accessibility of such services to lower income groups.

16. The Committee further notes that insufficient attention has been paid to the principle of the best interests of the child both in legislation and practice, as well as to the respect for the views of the child in school, social and family life. In this regard, it is noted that, as recognized by the State party, the civil rights and freedoms of the child are to be exercised subject to parental consent or discipline, thus raising doubts as to the compatibility of this practice with the Convention, notably articles 5 and 12.

17. The Committee is concerned at the number of orphans and abandoned children as well as at the increase in child-headed families, inter alia, as a result of the high incidence of AIDS, at the inadequate measures taken to ensure the realization of their fundamental rights and at the lack of alternatives to their institutionalization.

18. The Committee expresses its concern at the acceptance in the legislation of the use of corporal punishment in school, as well as within the family. It stresses the incompatibility of corporal punishment, as well as any other form of violence, injury, neglect, abuse or degrading treatment, with the provisions of the Convention, in particular articles 19, 28 paragraph 2 and 37.

19. The Committee is concerned that primary education is neither free nor compulsory. Moreover, it expresses its concern at the lack of learning and teaching facilities as well as at the shortage of trained teachers in rural areas, and in particular on commercial farms. It shares the concern expressed by the Government at the low quality of education. The cost to families of secondary education are leading to an increasing drop-out rate for girls, particularly in rural areas. The Committee notes with concern the growing disparity within the education system owing to the parallel systems of private and public schools which results ultimately in racial segregation at school on the basis of the economic status of parents.

20. With regard to child exploitation, the Committee is concerned at the persistence of situations of child labour, including in agriculture, domestic service and on commercial farms. It notes with particular concern the lack of a legal prohibition of child labour.

21. The Committee is concerned at the present system of juvenile justice, including the lack of a clear legal prohibition of capital punishment, life imprisonment without possibility of release and indeterminate sentencing, as well as at the recourse to whipping as a disciplinary measure for boys.

E. Suggestions and recommendations

22. The Committee recommends that the State party undertake a comprehensive review of the national legal framework, with a view to ensuring its full compatibility with the principles and provisions of the Convention. Particular attention should be paid to ensuring effective implementation of the principle of non-discrimination, including by revising relevant constitutional provisions, as well as other legislative texts reflecting any kind of discrimination such as on the basis of gender, race, birth or marital status.

23. The Committee emphasizes the importance of developing an effective and permanent system of monitoring the implementation of the Convention based on close cooperation between all the relevant government ministries and departments at the national and local levels, and encourages the State party to pursue its efforts with a view to institutionalizing the collaboration with non-governmental organizations.

24. The Committee suggests that the system of data collection be improved and appropriate disaggregated indicators identified with a view to assessing the progress achieved in all areas covered by the Convention in all parts of the country and in relation to all groups of children.

25. The Committee encourages the Government to pursue its efforts aimed at broadening the mandate of the Ombudsperson with a view to ensuring that violations of children's rights are duly investigated, including when committed by members of the defence forces, law-enforcement and correctional officials, and as a means to supervise the situation of children placed in institutions and detention centres.

26. The Committee encourages the Government to adopt adequate measures to prevent and eliminate prevailing social attitudes and cultural and religious

practices hampering the realization of children's rights. Systematic information and awareness campaigns should be launched to create a deeper understanding of the Convention and of the need to respect and protect children's rights. Similarly, training activities should be developed for professional groups working with and for children, including teachers, law-enforcement and correctional officials, members of defence forces, judges, social workers and health personnel. The Committee further encourages the State party to pursue the steps undertaken to include the Convention in school curricula and to give consideration to reflecting it in the training curricula.

27. The Committee encourages the State party to adopt all appropriate measures to ensure the birth registration of all children, including those born in rural areas and on commercial farms, and encourages the efforts designed to establish registration units at schools and clinics.

28. The Committee recommends that the State party pay particular attention to the implementation of article 4 of the Convention and undertake all appropriate measures to the extent possible with available resources, for the realization of the economic, social and cultural rights of children. Special attention should be paid to the situation of the most disadvantaged groups of children, including those living in rural areas, poor urban areas and on commercial farms, as well as orphans or abandoned children, and measures should be adopted with a view to providing adequate safety nets for such children and protecting them against the adverse effects of reductions in budgetary allocations and of the introduction of fees in health and education services.

29. The Committee recommends that the State party take the principle of the best interests of the child as a primary consideration in all actions concerning children, including those undertaken by courts, public or private welfare institutions, administrative authorities or legislative bodies. The Committee encourages the State party to adopt appropriate measures to assist parents in the performance of their child-rearing responsibilities. The Committee further encourages the State party to consider appropriate alternatives to institutionalization for children deprived of family environment, as well as special protection and assistance for child-headed families. The Committee encourages the State party to consider ratifying the Hague Convention for the Protection of Children and Cooperation in respect of Inter-Country Adoption of 1993.

30. Appropriate measures should also be adopted by the State party with a view to ensuring respect for the views of the child in family, school and social life and to promoting the exercise of the rights by the child in a manner consistent with his or her evolving capacities.

31. The Committee recommends that the State party adopt appropriate legislative measures to forbid the use of any form of corporal punishment within the family and in school.

32. Similar measures should be adopted to prohibit child labour below a minimum age in the light of article 32 of the Convention. In this regard, the Committee encourages the State party to consider the recommendations made by

the International Labour Organization in its mission statement of 1993 and, in particular, to prohibit the employment of young persons below 18 in hazardous activities as well as to make education free and compulsory up to age 15. In this connection, the Committee encourages the State party to consider seeking assistance from the International Labour Organization.

33. In the field of juvenile justice, the Committee recommends that the State party raise the minimum age of criminal responsibility and incorporate in the legislation a clear prohibition of capital punishment, life imprisonment without possibility of release and indeterminate sentencing as well as of the use of whipping as a disciplinary measure.

34. The Committee further recommends that the report submitted by the State party, along with the relevant summary records and the concluding observations thereon, be disseminated as widely as possible to the public. The Committee would also like to suggest that these documents be brought to the attention of Parliament as a means of ensuring a follow-up to suggestions and recommendations made by the Committee.